

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION**

UNITED STATES OF AMERICA,)	Cause No. CR-10-18-BLG-RFC
)	
Plaintiff,)	
)	
v.)	ORDER
)	
MARVIN EARL ALBACK,)	
)	
Defendant.)	
_____)	

In accordance with the Findings and Recommendations of the United States Magistrate Judge Carolyn Ostby, to which there has been no objection, and subject to this Court's consideration of the Plea Agreement under Fed. R. Crim. P. 11(c)(3), the plea of guilty of the Defendant to Counts I and II of the Information is hereby accepted. The Defendant is adjudged guilty of the offense of wire fraud in violation of 18 U.S.C. § 1343 and bankruptcy fraud in violation of 18 U.S.C. § 153.

IT IS HEREBY ORDERED that:

1. Sentencing is set down for **1:30 P.M. on Wednesday, May 26, 2010**, in Courtroom I of the James F. Battin Federal Building, Billings, Montana.
2. The United States Probation Office shall conduct a presentence investigation in accordance with Fed. R. Crim. P. 32(b) and 18 U.S.C. § 3552(a).

3. Following completion of the presentence report, the probation officer shall disclose the report (excepting any recommendations of the probation officer) to the defendant, counsel for the defendant, and counsel for the government no later than **April 21, 2010**. The probation officer shall not disclose, directly or indirectly to anyone under any circumstances, the substance or contents of any recommendation made or to be made to the Court.

4. In cases where restitution is mandatory, the probation officer shall consider a payment plan with the Defendant and make recommendations to the Court concerning interest and a payment schedule.

5. In accordance with U.S.S.G. § 6A1.2, after receipt of the presentence report and no later than **May 5, 2010**, counsel for each party shall present to the probation officer, in writing, any objections to be relied upon at sentencing and, if there is a dispute over any material in the presentence report, counsel shall meet with the probation officer and attempt to resolve disputes informally by diligent good faith effort.

6. The presentence report, in final form, shall be delivered to the Court and the parties no later than **May 14, 2010**.

7. If the objections made pursuant to ¶5 are not resolved and counsel wishes the Court to address them, the objecting party shall submit all unresolved objections and a sentencing memorandum (one original and two copies) to the court no later than **May 20, 2010**. Sentencing memoranda must be faxed to opposing counsel on the day filed. The

Court will resolve disputes in accordance with § 6A1.3 of the guidelines at the sentencing hearing.

8. Any responses to sentencing memoranda shall be filed on or before **May 24,**

2010. Responses must be faxed to opposing counsel on the day filed.

9. Reply briefs will not be accepted for filing in sentencing matters.

10. All parties that intend to have witnesses testify at sentencing shall give notice to this Court ten (10) days prior to the sentencing date.

11. Defendant is released under the same terms and conditions pending sentencing.

DONE and DATED this 9th Day of March, 2010.

/s/ Richard F. Cebull
RICHARD F. CEBULL
U.S. DISTRICT COURT JUDGE